IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

SHAWNEE D. DOUGLAS, *plaintiff,* v. JOHNSON & JOHNSON CONSUMER, INC., and IMERYS TALC AMERICA, INC., f/k/a LUZENAC AMERICA, INC., *defendants.*	)))))))))	JURY DEMAND No. 17C954 Division _____

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LARRY L. HENRY, CLERK
BY JW DC

COMPLAINT

Pursuant to the procedural and substantive law of the State of Tennessee (including the Tennessee Products Liability Act, *Tenn. Code Ann.* §29-28-101, et seq.) and, where applicable, the substantive law of one or more other states, the plaintiff Shawnee Dippel Douglas asserts the following against the defendants:

PARTIES, JURISDICTION, and VENUE

1. The Plaintiff Shawnee Dippel Douglas is a 66-year old (d.o.b. 12/24/50) resident of Chattanooga, Hamilton County, Tennessee.

2. Ms. Douglas was diagnosed with malignant peritoneal mesothelioma on August 24, 2016, in Hamilton County, Tennessee.

3. Ms. Douglas developed mesothelioma due to, or as a consequence of, her exposure to asbestos-containing or asbestos-contaminated talc or talc-based products that were mined, supplied, designed, manufactured, marketed, or sold by the defendants.

4. Ms. Douglas developed mesothelioma due also to, or as a consequence of, her exposure to respirable talc or asbestos fibers that emanated from her daily use—throughout her lifetime—of the defendants' asbestos-containing or asbestos-contaminated talc or talc-based products, including specifically Johnson's baby powder.

5. Ms. Douglas used the defendants' asbestos-containing or asbestos-contaminated talc or talc-based products, including specifically Johnson's baby powder, in Hamilton County, Tennessee.

6. Ms. Douglas was exposed to the defendants' asbestos-containing or asbestos-contaminated talc or talc-based products, including specifically Johnson's baby powder, in Hamilton County, Tennessee.

7. The defendant JOHNSON & JOHNSON CONSUMER, INC., f/k/a MCNEIL-PPC, INC., is a New Jersey corporation with its principal place of business in New Jersey. It was at one time and is currently authorized to do business in the State of Tennessee, and is subject to the jurisdiction of this Court.

8. The defendant IMERYS TALC AMERICA, INC., f/k/a LUZENAC AMERICA, INC., is a Delaware corporation with its principal place of business in California. It was at one time authorized to do business in the State of Tennessee, and is subject to the jurisdiction of this Court.

9. The defendant IMERYS TALC AMERICA, INC., f/k/a LUZENAC AMERICA, INC., mined and supplied the asbestos-containing or asbestos-contaminated talc to the defendant JOHNSON & JOHNSON CONSUMER, INC., f/k/a MCNEIL-PPC, INC.

10. The asbestos-containing or asbestos-contaminated talc from the defendant IMERYS TALC AMERICA, INC., f/k/a LUZENAC AMERICA, INC., was used by the defendant JOHNSON & JOHNSON CONSUMER, INC., f/k/a MCNEIL-PPC, INC., to manufacture its Johnson's baby powder.

11. JOHNSON & JOHNSON CONSUMER, INC., f/k/a MCNEIL-PPC, INC., then marketed, distributed, and sold its Johnson's baby powder through retailers across the country including Hamilton County, Tennessee, to consumers like and including Ms. Douglas.

12. This Court has subject matter jurisdiction under *Tenn. Code Ann.* §16-10-101.

13. Venue is proper in this Court pursuant to *Tenn. Code Ann.* §20-4-101, et seq.

FIRST CAUSE OF ACTION – NEGLIGENCE

14. The factual and jurisdictional allegations of all the preceding paragraphs are re-alleged and incorporated herein as if repeated verbatim.

15. Ms. Douglas was exposed to asbestos-containing or asbestos-contaminated talc or talc-based products that were mined, supplied, designed, manufactured, marketed, or sold by the defendants.

16. Ms. Douglas inhaled and absorbed asbestos fibers emanating from the Defendants' talc or talc-based products, which the plaintiff or one of her family members purchased at a retail store and that the plaintiff used at home on a daily basis throughout her life. The plaintiff's mother used these same talc or talc-based products on the plaintiff when the plaintiff was a baby. The plaintiff used these same talc or talc-based products on her two daughters when they were babies. As a result, Ms. Douglas developed mesothelioma, an asbestos-related disease.

17. The Defendants either knew or should have known of the intrinsically dangerous and hazardous nature of the asbestos-containing or asbestos-contaminated talc or talc-based products to which Ms. Douglas was exposed.

18. The Defendants had a duty of reasonable care not to expose Ms. Douglas and others similarly situated to intrinsically dangerous talc or asbestos fibers.

19. Talc has a similar mineral composition and properties to asbestos.

20. The Defendants knew or should have known that Ms. Douglas, or others similarly situated, would come in contact with their asbestos-containing or asbestos-contaminated talc or talc-based products and would be exposed to the inhalation of the asbestos fibers contained in their asbestos-containing or asbestos-contaminated talc or talc-based products.

21. The Defendants knew or should have known that Ms. Douglas, or others similarly

situated, would be in danger of developing talc or asbestos-related diseases such as talcosis, asbestosis, lung cancer, mesothelioma, or other forms of cancer.

22. The Defendants were negligent in one or all of the following respects:

a. In failing to adequately warn Ms. Douglas, or others similarly situated, of the dangerous characteristics of asbestos and asbestos-containing or asbestos-contaminated talc or talc-based products;

b. In failing to provide Ms. Douglas with information as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances;

c. In failing to take reasonable precautions or exercise reasonable care to publish, adopt, and enforce a safety plan and a safe method of handling and installing its asbestos-containing or asbestos-contaminated talc or talc-based products;

d. In continuing to manufacture, market, and sell asbestos-containing or asbestos-contaminated talc or talc-based products when the Defendants knew or should have known that such products caused injuries or death from talcosis, asbestosis, lung cancer, mesothelioma, or other forms of cancer in those persons exposed to talc or asbestos;

e. In inducing Ms. Douglas and others similarly situated, through material misrepresentations, to unknowingly expose themselves to the hazards of talc or asbestos;

f. In failing to adequately test the asbestos-containing or asbestos-contaminated talc or talcum powder used in their products;

g. In failing to remove and recall all of their asbestos-containing or asbestos-contaminated talc or talc-based products from the stream of commerce, the marketplace, and the home;

h. In failing to meet defendants' continuing duty to warn or advise Ms. Douglas and others similarly situated of the dangers associated with asbestos exposure and to cease all future exposure, and to keep dust and fibers from the home environment;

i. In failing to conduct adequate, if any, industrial hygiene, epidemiological or medical studies related to asbestos exposures resulting from the use of Defendants' talc or talc-based products;

j. In failing to provide instructions or a method for the safe use of asbestos, if any;

k. In failing to provide adequate, if any, instructions in the use or removal of old asbestos-containing or asbestos-contaminated talc or talc-based products.

23. The following is an example of the information available to the defendants in the medical and scientific literature and of which they either knew or should have known: In testimony on January 22, 1976, before the U.S. Department of Labor, Standards Advisory Committee on Construction Safety and Health, Dr. Paul Kotin -- former head of NIOSH and a physician with Johns Manville Corporation – discussed the danger associated with asbestos dust in the home. Among other things, Dr. Kotin testified that:

> "Once asbestos gets into the home, carried home by the workmen, which itself is a tragedy, it should not happen, it is asbestos that is there permanently. It gets into rugs and carpets. It gets suspended by movement, and actually you are getting a 24 hour-a-day exposure, rather than a partial exposure, but even worse than that is the fact that you are exposing a population of the family, which includes the very young that is always the most susceptible."

24. The Defendants owed a duty to Ms. Douglas to exercise reasonable care in protecting her family members from asbestos exposure as both defendants knew, or should have known, that Ms. Douglas, and others similarly situated, would be in danger of developing fatal asbestos-related diseases such as the asbestos-related cancer known as mesothelioma.

25. The Defendants breached this duty as alleged in the other causes of action alleged in this complaint.

26. The negligent actions of the defendants exhibit willful, wanton, and reckless conduct

such as to equate to an entire want of care toward Ms. Douglas and others similarly situated.

27. The Defendants' negligent, grossly negligent, willful, wanton, and reckless conduct, as described herein, was the legal and proximate cause of Ms. Douglas' illness and, as a result, Ms. Douglas has suffered damages in the form of medical expenses, pain and suffering, extreme emotional distress, and other damages as can be identified at a trial of this action.

SECOND CAUSE OF ACTION – STRICT LIABILITY
(DEFECTIVE OR UNREASONABLY DANGEROUS PRODUCT)

28. The factual and jurisdictional allegations of all the preceding paragraphs are re-alleged and incorporated herein as if repeated verbatim.

29. The Defendants' asbestos-containing or asbestos-contaminated talc or talc-based products possessed latent characteristics or latent functional manufacturing and design defects at the time they were mined or manufactured and at the time Ms. Douglas was exposed to them in that the products contained asbestos, which the Defendants knew, or in the exercise of reasonable care should have known, would cause injuries in the form of talcosis, asbestosis, lung cancer, mesothelioma or other forms of cancer, to those individuals who used such asbestos-containing or asbestos-contaminated talc or talc-based products.

30. At the time the Defendants mined, supplied, designed, manufactured, sold, marketed, and delivered, the asbestos-containing or asbestos-contaminated talc or talc-based products to which Ms. Douglas was exposed, and at the time those products were used in the manner and environment intended and without substantial change affecting their condition, the products contained latent characteristics or latent manufacturing and design defects, and were defective or unreasonably dangerous and unfit for their intended use in that:

a. They were designed to, and did, contain asbestos that released respirable fibers – a substance deleterious, poisonous, and highly harmful to Ms. Douglas and others similarly situated; and

b. They did not contain any protective appliance or equipment to reduce or eliminate Ms. Douglas' inhalation of the poisonous and highly harmful asbestos fibers contained in such products.

31. The Defendants' asbestos-containing or asbestos-contaminated talc or talc-based products were defective or unreasonably dangerous at the time they left the control of the defendants insofar as they contained a known carcinogen, asbestos.

32. The products mined, supplied, manufactured, marketed, and sold by the defendants were never changed, altered, improperly maintained, or used abnormally by Ms. Douglas or by other similarly situated consumers (end product users).

33. At all times relevant hereto, the asbestos-containing or asbestos-contaminated talc or talc-based products of the Defendant were used in the normal, anticipated, and intended manner.

34. The Defendants' defective or unreasonably dangerous asbestos-containing or asbestos-contaminated talc or talc-based products were the legal and proximate cause of Ms. Douglas' illness and disease. As a result, Ms. Douglas has suffered damages in the form of medical expenses, pain and suffering, extreme emotional distress, and other damages as will be identified at the trial of this action.

THIRD CAUSE OF ACTION – STRICT LIABILITY (FAILURE TO WARN)

35. The factual and jurisdictional allegations of all the preceding paragraphs are re-alleged and incorporated herein as if repeated verbatim.

36. The Defendants' asbestos-containing or asbestos-contaminated talc or talc-based products possessed latent characteristics, hazards, or latent functional manufacturing and design defects at the time they were mined or manufactured and at the time Ms. Douglas was exposed to them in that the products contained asbestos, which the Defendant knew, or in the exercise

of reasonable care should have known, was hazardous and capable of causing injuries in the form of talcosis, asbestosis, lung cancer, mesothelioma, or other forms of cancer, to those individuals who used such asbestos-containing or asbestos-contaminated talc or talc-based products and were thus exposed to respirable talc or asbestos fibers.

37. The defendants' asbestos-containing or asbestos-contaminated talc or talc-based products, in their normal and intended use, would release respirable talc or asbestos fibers.

38. The Defendants failed to educate or warn Ms. Douglas and others similarly situated regarding the potential dangers, hazards, or carcinogenic nature of exposure to respirable talc or asbestos fibers.

39. If any warning is alleged to have been provided by the Defendants, it was wholly inadequate to protect Ms. Douglas and others similarly situated from the deadly and carcinogenic dangers of exposure to asbestos.

40. At all times relevant hereto, the asbestos-containing or asbestos-contaminated talc or talc-based products of the Defendants were used in the normal, anticipated, and intended manner.

41. The failure of the Defendants to provide proper or adequate warnings with their hazardous, dangerous, defective, and unreasonably dangerous asbestos-containing or asbestos-contaminated talc or talc-based products constitute a product defect that was the legal and proximate cause of Ms. Douglas' illness and disease.

42. As a result, Ms. Douglas has suffered damages in the form of medical expenses, pain and suffering, extreme emotional distress, and other damages as will be identified at the trial of this action.

RELIEF SOUGHT

43. Based on the foregoing, the plaintiff requests the following relief:

a. That process issue and be served on the defendants and that the defendants be required to answer within the time set forth by law;

b. That the plaintiff recover actual and compensatory damages from the Defendants in the amount of $5,000,000, including damages related to physical and mental impairment and loss of enjoyment of life, physical, emotional, and mental pain and suffering, reasonable and necessary compensation for Ms. Douglas' fear of premature death as a result of her exposure to the asbestos-containing or asbestos-contaminated talc or talc-based products of the defendants, and including reasonable and necessary compensation for continuing medical examinations and x-rays to monitor Ms. Douglas' condition, and for other medical expenses that will be necessary to alleviate or reduce Ms. Douglas' pain and suffering in the future as a result of her exposure to the Defendants' asbestos-containing or asbestos-contaminated talc or talc-based products;

d. That the plaintiff recover punitive damages from the Defendants in the amount of $10,000,000;

44. In addition to the above, the plaintiff also asks for her discretionary costs of the cause, for interest on the judgment at the legal rate, for such other relief as the Court deems appropriate, that court costs be adjudged against the Defendants, and that this case be tried to a jury upon the joining of the issues.

Respectfully submitted,

SUMMERS, RUFOLO & RODGERS, P.C.

By: ______________________
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IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

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plaintiff,

v.

JOHNSON & JOHNSON CONSUMER, INC., and IMERYS TALC AMERICA, INC., f/k/a LUZENAC AMERICA, INC.,
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JURY DEMAND

No. 17C954

Division ____

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COST BOND

The undersigned acknowledges and hereby binds the undersigned for the payment of all costs in this court which may at any time be adjudged against Plaintiff, (hereinafter "principal") in the event said principal shall not pay the same if so ordered by this Court.

Witness My Hand this 22nd day of August, 2017.

Respectfully submitted,

SUMMERS, RUFOLO & RODGERS, P.C.

By: [signature]

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State Of Tennessee

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	)	No. 17C954
v.	)	
	)	Division _______
JOHNSON & JOHNSON CONSUMER, INC., and IMERYS TALC AMERICA, INC., f/k/a LUZENAC AMERICA, INC., *defendants.*	)	

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SUMMONS

To Defendant: JOHNSON & JOHNSON CONSUMER, INC., c/o CT Corporation System, 800 South Gay Street, Suite 2021, Knoxville, TN 37929-9710

SERVE THROUGH: Sheriff of Knox County

You are hereby summoned to answer and make defense to a bill of complaint which has been filed in the Circuit Court of Hamilton County, Tennessee in the above styled case. Your defense to this complaint must be filed in the office of the Circuit Court Clerk of Hamilton County, Tennessee on or before thirty (30) days after service of this summons upon you. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

WITNESSED and Issued this 22 day of August, 2017.

LARRY HENRY, CIRCUIT COURT CLERK

By: J. Wheeler, D.C.
Deputy Circuit Court Clerk

ATTORNEYS FOR PLAINTIFF:

SUMMERS, RUFOLO & RODGERS, P.C.
735 Broad Street, Suite 800
Chattanooga, Tennessee 37402
(423) 265-2385

Received this __________ day of ______________________________, 20_______.

/S/______________________________
Deputy Sheriff